

CHAPTER 107
BEVERAGE CONTAINER DEPOSITS

[Prior to 7/1/83, DEQ Ch 34]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—107.1(455C) Scope. This chapter is intended to implement the provisions of Iowa Code chapter 455C. The Act requires that every alcoholic liquor container, beer, mineral water, soda water or carbonated soft drink container sold in Iowa for consumption off the premises of the dealer be subject to a deposit of 5 cents or more. Such container must have indicated on it that the container is subject to a minimum refund of 5 cents or must be exempt from the requirement of having the refund value indicated on it. An empty container on which a deposit was made may be returned to any dealer in the state who sells the kind, brand and size of container or may be returned to a redemption center. The dealer or redemption center must accept the empty container and refund the deposit.

The Act also prohibits the sale at retail of any metal beverage container so designed and constructed that a part of the container is detachable in opening, the so-called “pop-top can.”

This chapter contains rules specifying the minimum size of type to be used for indicating the minimum refund value on beverage containers, rules relating to approval of redemption centers for beverage containers and rules relating to exemptions from labeling the refund value on beverage containers. This chapter also contains interpretive rules that clarify or interpret the statute, or apply the statute to specific factual situations.

567—107.2(455C) Definitions. As used in this chapter:

“*Act*” means Iowa Code chapter 455C.

“*Alcoholic beverage*” means any beverage containing more than one-half of 1 percent of alcohol by volume including alcoholic liquor, wine, and beer.

“*Alcoholic liquor*” or “*intoxicating liquor*” means the varieties of liquor defined hereunder in paragraphs 1 and 2 which contain more than 5 percent of alcohol by weight, beverages made as described in the definition of “beer” which beverages contain more than 5 percent of alcohol by weight but which are not wine as defined in this rule, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in the definition of “wine” containing more than 17 percent alcohol by weight, and susceptible of being consumed by a human being, for beverage purposes.

1. “*Alcohol*” means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

2. “*Spirits*” means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whiskey, and gin.

3. Rescinded effective July 1, 1985.

“*Approved redemption center*” means a redemption center that has been approved by the department pursuant to 107.4(455C).

“*Beer*” means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of 1 percent of alcohol by volume but not more than 5 percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

“*Beverage*” means wine as defined in Iowa Code section 123.3, subsection 7, alcoholic liquor as defined in Iowa Code section 123.3, subsection 8, beer as defined in Iowa Code section 123.3, subsection 9, mineral water, soda water or similar carbonated soft drinks in liquid form intended for human consumption.

“Beverage container” means any sealed glass, plastic, or metal bottle, can, jar or carton containing a beverage.

“Carbonated” means charged under pressure with carbon dioxide.

“Commission” means the environmental protection commission of the department of natural resources.

“Consumer” means any person who purchases a beverage in a beverage container for use or consumption.

“Dealer” means any person who engages in the sale of beverages in beverage containers to a consumer.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Distributor” means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.

“Exempt beverage container” means a beverage container that is not marked with the words “Iowa Refund 5¢” because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of 5 or more cents or because it is a refillable metal or plastic beverage container that has been exempted, in accordance with the procedure of 107.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words “Iowa Refund 5¢” indicated on the container, but is not necessarily exempt from the minimum deposit.

“Manufacturer” means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.

“Mineral water” means water naturally or artificially infused with mineral salts or gases. Mineral water may be carbonated or uncarbonated.

“Redemption center” means any establishment other than a dealer’s premises at which consumers may return empty beverage containers and receive payment of the refund value of the containers, or means the premises of a dealer if the dealer voluntarily chooses to accept, and refund the deposit on, empty beverage containers (other than alcoholic liquor containers) that are not of the kind, size and brand sold by the dealer. A redemption center is either an approved redemption center or an unapproved redemption center.

“Soda water” means water that has been carbonated.

“Soft drink” means any nonalcoholic liquid other than mineral water or soda water intended for human consumption.

“Unapproved redemption center” means a redemption center that has not been approved by the department pursuant to 107.4(455C).

“Wine” means any beverage containing more than 5 percent but not more than 17 percent alcohol by weight obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

This rule is intended to implement Iowa Code sections 455C.1 and 455C.9.

567—107.3(455C) Labeling requirements.

107.3(1) All beer, wine, mineral water, soda water and carbonated soft drink containers (other than exempt containers) sold or offered for sale in Iowa by a dealer shall have the words “Iowa Refund 5¢” clearly and legibly indicated on the container. If the refund value is more than 5 cents, the greater value may be indicated, e.g., “Iowa Refund 10¢.” The words may be abbreviated if a request to use a specific abbreviation is submitted to and approved by the director.

107.3(2) The minimum size of the words “Iowa Refund 5¢” shall be 9-point type (approximately .125 inch or 3 millimeters) if the words are embossed and 18-point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. A stamp or label may have the words

“Iowa Refund 5¢” in less than 18-point type if the label is submitted to the director and the director determines that the contrasting color, or the characteristics of the stamp or label, make the stamp or label as easy to discern as a stamp or label with 18-point type.

107.3(3) The words “Iowa Refund 5¢” shall be indicated by embossing (raised letters) or by a stamp, label or other method securely and permanently affixed to the container.

107.3(4) The print on a stamp, label or other method used to indicate the words “Iowa Refund 5¢” should be in a high contrast color.

107.3(5) The words “Iowa Refund 5¢” should be on the end of a metal beverage container. The words “Iowa Refund 5¢” should be on the conical portion of a glass or plastic beverage container so that the words are visible from above.

107.3(6) An exemplar of the label or labeled container may, but need not, be submitted to the director for informal approval.

107.3(7) An application for exemption from the requirement of having the words “Iowa Refund 5¢” indicated on the container shall be on Form LQ 37 or on 8½- x 11-inch paper and contain:

- a. The name, address and telephone number of the applicant;
- b. The kind of container, i.e., glass, metal or plastic; the size in fluid ounces or milliliters and the contents, i.e., beer, mineral water, soda water or carbonated soft drink;
- c. The refund value of the container; and
- d. A statement of why the container can be readily and permanently identified by consumers as subject to a deposit.

107.3(8) The director may exempt the container if the director determines that the container is subject to a deposit of 5 or more cents and that consumers can readily and permanently identify the container as one subject to a deposit.

107.3(9) The director shall maintain and, from time to time, distribute a list of all brands, kinds and sizes of beverage containers that have been exempted from the requirement of having the words “Iowa Refund 5¢” indicated on the container.

567—107.4(455C) Approval of redemption centers.

107.4(1) *Approved and unapproved redemption centers explained.* The Act provides for both approved and unapproved redemption centers. Both approved and unapproved redemption centers perform the same activity, that is, redemption of empty beverage containers; and both are lawful. However, an approved redemption center relieves any dealer covered in the order approving the redemption center from the obligation of redeeming those empty beverage containers covered in the order under 107.4(4). Thus the difference between an approved and unapproved redemption center is in the effect on the obligation of dealers to redeem certain empty beverage containers rather than in the activity performed by the redemption center.

107.4(2) Nothing in the Act or this chapter prevents a person from establishing a redemption center that has not been approved by the director. However, an unapproved redemption center does not relieve any dealer of the responsibility to refund the deposit to the consumer upon presentation of any empty beverage container.

107.4(3) *Contents of application for approval.* An application for approval of a redemption center shall be on Form LQ 38 or on 8½- x 11-inch paper that contains the following information:

- a. Name, address and telephone number of the person or persons responsible for the establishment and operation of the redemption center;
- b. The address and telephone number, if in service, of the redemption center;
- c. The kinds, sizes, and brand names of the beverage containers which will be accepted at the redemption center;
- d. The names and addresses of the dealers to be served by the redemption center and the written consent of those dealers to be served by the redemption center;
- e. Distance, in blocks or other appropriate measure, from the redemption center to each dealer to be served by the redemption center;

- f. The names and addresses of the distributors whose beverage containers will be redeemed;
- g. The hours the redemption center is to be open;
- h. Whether metal or glass beverage containers will be crushed or broken and, if so, the written consent of the distributor or manufacturer to the crushing or breaking;
- i. Reasons why the dealer and redemption center believe that the center will provide a convenient service to consumers.

107.4(4) An order of the director approving a redemption center shall not authorize a redemption center to accept and pay the refund value of beverage containers purchased from Iowa state liquor stores.

107.4(5) A dealer served by an approved redemption center must prominently post on the premises of the dealer the location and hours of the redemption center.

567—107.5(455C) Redeemed containers — use. Distributors are requested to inform the director of the intended ultimate use or disposal of redeemed beverage containers. The commission encourages the reuse or recycling of empty beverage containers and the department will assist distributors in finding and examining alternatives to burial of empty containers in sanitary landfills.

567—107.6(455C) Rules relating to alcoholic liquor containers and wine containers purchased from state-owned liquor stores.

107.6(1) Labeling. All alcoholic liquor containers and wine containers (except alcoholic liquor containers and wine containers sold to holders of liquor control licenses or beer or wine permits, as defined in Iowa Code chapter 123) sold by state-owned liquor stores shall have the words “Iowa Refund 5¢” clearly and legibly indicated on the container. If the refund value is more than 5 cents the greater value may be indicated, e.g., “Iowa Refund 10¢.” The words may be abbreviated if a request to use a specific abbreviation is submitted to and approved by the director.

107.6(2) Mandatory deposit. The consumer (other than the holder of a liquor control license or beer or wine permit, as defined in Iowa Code chapter 123) will be charged a 5-cent deposit on each alcoholic liquor container or wine container sold in the state of Iowa.

107.6(3) Refund. Alcoholic liquor containers and wine containers bearing the refund label described in 107.6(1) and 107.6(4) may be redeemed in any state-owned liquor store if the empty beverage containers are clearly marked to indicate that they were sold in a state-owned liquor store. Alcoholic liquor containers bearing the label described in 107.6(1) and 107.6(4) shall not be redeemed by an approved or unapproved redemption center or by a dealer other than the alcoholic beverages division of the department of commerce. Wine containers bearing the refund label described in 107.6(1) and 107.6(4), except wine containers with a state liquor store label attached, shall be redeemed by any dealer, which sells the kind, size and brand as the empty wine container. A dealer, other than a state liquor store, or a distributor may refuse to accept and to pay the refund value of an empty wine container which is marked to indicate that it was sold by a state liquor store. A state liquor store may refuse to accept and to pay the refund value of an empty wine container which is not marked to indicate that it was sold by a state liquor store.

107.6(4) The provisions of subrules 107.3(2) to 107.3(9) shall fully apply to the refund labeling requirements of liquor containers and wine containers as fully as if set forth in this rule.

107.6(5) Each beverage container containing wine or alcoholic liquor which is sold or offered for sale in a state liquor store shall also be marked by embossing or by stamp, label, or other methods securely affixed to the container to indicate that it was sold in a state liquor store.

This rule is intended to implement Iowa Code sections 455C.4 and 455C.5, as amended by 1985 Iowa Acts, chapter 32.

567—107.7(455C) Redeemed containers must be reasonably clean. Consumers should take care to return containers in a reasonably clean condition. In order to be redeemed, an empty beverage con-

tainer shall be free of materials, such as paper, sticks and cigarette butts, other than the residue of the beverage.

567—107.8(455C) Interpretive rules.

107.8(1) *Beverage containers “sold” on interstate carriers.* It is common practice for interstate carriers to provide or sell soft drinks, beer, wine, or alcoholic liquor to passengers for consumption on the conveyance. Such containers are not a litter problem and their return would be impractical. Since statutes should be construed to avoid a strained or impractical result, the commission believes that control of the beverage containers “sold” on interstate carriers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.

107.8(2)* *Beverage containers must be reasonably intact.* In order to be redeemed, an empty beverage container must be returned reasonably intact. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed, but may not be crushed flat. A returned beverage container should be able to stand on its own base. (Reason: Section 2.2 of the Act provides in part: “A dealer or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept such containers.” So far as metal beverage containers are concerned, such right of approval in the distributor would be meaningless if the dealer were required to accept and redeem crushed metal beverage containers from consumers. Since there appears to be no reason to treat distributors of nonrefillable glass beverage containers differently than distributors of metal beverage containers, there is presumably a corresponding right in the distributors of nonrefillable glass beverage containers to approve the destruction of the containers.)

107.8(3) *Vending machines.*

a. When a beverage container is dispensed from a vending machine in exchange for money, there is presumed to be a “sale of a beverage in a beverage container to a consumer” within the meaning of 107.2(13). Therefore some person must be the “dealer” who is responsible for collecting the deposit at the time of sale and for refunding the deposit upon return of the empty beverage container. Because of the variety of contractual relationships surrounding operation of a vending machine, the person who is the “dealer” might be the owner of the vending machine, the lessee of the vending machine, the owner of the premises on which the vending machine is located, or the person who stocks the vending machine. It is incumbent upon the parties involved in the operation of a vending machine to determine the person who is the “dealer” and to indicate prominently on the vending machine the name, location and normal operating hours of the dealer (or an approved redemption center) if the dealer does not have personnel on its premises.

b. If the vending machine is located on premises where personnel of the dealer are not normally working, there is no obligation to provide personnel to redeem beverage containers at the site of the vending machine. However, the “dealer” must provide for redemption of beverage containers at the dealer’s usual working place.

107.8(4) *Transfer tanks, premix tanks and beer kegs.* Because transfer tanks, premix tanks and beer kegs (half-kegs, quarter kegs or pony kegs) are refillable, are returned to distributors and are not a litter problem, the commission believes that control of these containers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.

[Filed 12/8/78, Notice 9/6/78—published 12/27/78, effective 1/31/79**]

[Filed emergency 4/27/79 after Notice 2/7/79—published 5/16/79, effective 4/27/79]

[Filed 4/23/81, Notice 2/18/81—published 5/13/81, effective 6/17/81]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed emergency 6/19/85—published 7/17/85, effective 7/1/85]

[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]

*Objection filed 1/5/79, see [DEQ, 34.8(2)] IAB 1/24/79.

**The Administrative Rules Review Committee at their January 4, 1979, meeting delayed [DEQ 34.8(1)] 107.8(1) under provisions of 67GA, SF 244, §19.